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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,046	06/24/2003	Fritz Hesel	32368-189830	8149
26694	7590	04/06/2006	EXAMINER	
VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20045-9998			VALENTIN, JUAN D	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/602,046

Applicant(s)

HOSEL ET AL.

Examiner

Juan D. Valentin II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Amendment after Final.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 8-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 8-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-4 & 8-27 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 8, 9, 11-27 rejected under 35 U.S.C. 103(a) as being unpatentable over Leifeld et al. (USPN '559, hereinafter Leifeld) in view of Lubenow (Patent abstract translation of DE 196 24 905 A, reference A6 in applicants IDS filed 07/13/2005) and further in view of Aepli (USPN '794 A1).

### **Claims 1-3, 8, 9, 11-14, 27**

Leifeld discloses in conjunction with Fig. 1, an apparatus on a textile fiber processing machine for inspecting and evaluating a moving (claim 11) textile fiber material 25 (col. 1, line 64-col. 2, line 2 & col. 4, line 36-col. 5, line 11), the apparatus comprising an opto-electronic system 12, 13, 14, & 24 for scanning the textile fiber material, there being relative movement between the opto-electronic device and the fiber material in a working direction and the fiber material having a working width extending transversely to said working direction, the opto-

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electronic system comprising two or more imaging devices 12 (col. 4, lines 1-3) and which are in communication with a common image-evaluation device (col. 1, line 64-col. 2, line 33 & col. 3, line 52-col. 4, line 22). The camera 12 is mounted on transverse head 11c, Leifeld discloses that a plurality of cameras can be connected to image processing device 16 as shown above. Leifeld as applied above further discloses in which the opto-electronic system is stationarily arranged (claim 2) and, in use, the fiber material is moving along the working direction (col. 4, lines 56-60). The camera 12 is mounted on transverse head 11c, Leifeld discloses that a plurality of cameras can be connected to image processing device 16 as shown above. Leifeld as applied above in conjunction with Fig. 1, discloses a camera module 12 with a sensor and further camera components (claim 8, i.e. devices for reading out the individual pixels) located remotely from said module (Fig. 1, ref. 14). Leifeld further discloses wherein the imaging devices are connected to a common evaluation device (claim 9, Fig. 1, ref. 16, col. 4, lines 1-3).

Leifeld substantially teaches the claimed invention except that it fails to show 3 or more movable camera modules are displaced from one another laterally displaced across the working width of the fiber material in order to measure the entire width of the fiber material. Lubenow shows that it is known to provide a multiplicity (claim 27) of movable (claim 13) camera modules which are displaced from one another laterally displaced (claim 3) across the working width of the fiber material (claim 2) in order to measure the entire width simultaneously (claim 12) of the fiber material (AB section, Fig. 1) for an textile quality control system. It would have been obvious to someone of ordinary skill in the art to combine the device of Leifeld with the plurality of cameras arranged as taught by Lubenow for the purposes of providing continuous quality control at reduced capital costs (Lubenow, advantage section).

Leifeld substantially teaches the claimed invention except that it fails to show wherein the camera modules consist essentially of an objective in combination with a sensor. Aeppli shows that it is known to provide a camera module consisting essentially of an objective (Fig. 1, ref. 2) with a sensor (Fig. 1, ref. 3, col. 2, lines 34-4, col. 3, lines 8-17, col. 3, line 48-col. 4, line 66) for a device for detecting foreign substances in a textile material. It would have been obvious to someone of ordinary skill in the art to combine the device of Leifeld with the camera consisting essentially of an objective with a sensor of Aeppli for the purposes of providing detection of foreign fibers in textile materials (Aeppli, abstract).

#### **Claim 4**

It is the position of the Office that even though the reference of Leifeld does not specifically disclose the imaging devices are offset from one another in the working direction, it does outline the ability to using a plurality of cameras (col. 4, lines 1-3). In light of the applicants disclosure, there is no critically distinguishing camera offset feature in the applicants disclosure that exemplifies novelty over prior art disclosure. Applicant discusses on page 5, lines 24-25 in the originally filed disclosure that cameras can be arranged column-wise and side by side, but there is no further discussion as to how this camera arrangement actually improves over prior art disclosure or what problem this particular camera arrangement solves. As discussed above, Leifeld discloses the use of a plurality of cameras, therefore producing the same results as the applicants limitation, therefore the reference of Leifeld reads on applicants claimed limitation.

**Claims 15-26**

Official notice taken. It is the position of the Office that it is obvious and well known to someone of ordinary skill in the art at the time of the claimed invention to place the claimed measuring apparatus in the entrance and exit of textile processing machines, for example, in order to make sure that the fiber length and nep number are at desired values which is achieved by comparing both values to each other and those measurements stored in a desired memory, if the fiber length is too short, then adjustments to the working mechanisms within the machine are automatically made based on the compared values (Leifeld, Fig. 1, col. 1, lines 13-20, 35-39, col. 1, line 64-col. 2, line 33).

3. Claim 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Leifeld in view of Lubenow and further in view of Aepli and further in view of Shofner et al. (USPN '145, hereinafter Shofner).

**Claim 10**

Leifeld substantially teaches the claimed invention except that it fails to show two or more intermediate evaluating devices, each intermediate evaluation device being in communication with a respective imaging device and the intermediate evaluating devices being in communication with the common evaluation device. Shofner shows that it is known to provide two or more intermediate evaluating devices 140 & 142, each intermediate evaluation device 140 & 142 being in communication with a respective imaging device 130 & 132 and the intermediate evaluating devices being in communication with the common evaluation device 144 (Fig. 8, col. 7, line 59-col. 8, line 5) for a textile monitoring apparatus. It would have been

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obvious to someone of ordinary skill in the art to combine the device of Leifeld with the two or more intermediate evaluating devices of Shofner for the purposes of providing control of the intensity and duration of the illumination on the textile web.

### *Conclusion*

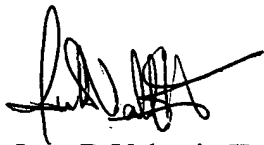
"Several facts have been relied upon from the personal knowledge of the examiner about which the examiner took Official Notice. Applicant must seasonably challenge well known statements and statements based on personal knowledge when they are made by the Board of Patent Appeals and Interferences. In re Selmi, 156 F.2d 96, 70 USPQ 197 (CCPA 1946); In re Fischer, 125 F.2d 725, 52 USPQ 473 (CCPA 1942). See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice). If applicant does not seasonably traverse the well-known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, applicant is charged with rebutting the well-known statement in the next reply after the Office action in which the well known statement was made."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Juan D. Valentin II whose telephone number is (571) 272-2433. The examiner can normally be reached on Mon.-Fri..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Juan D Valentin II  
Examiner 2877  
JDV  
April 1, 2006



**LAYLA G. LAUCHMAN**  
**PRIMARY EXAMINER**